

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

YITZCHOK ROKOWSKY, on behalf of
himself and all others similarly situated,

Plaintiff,

v.

VERICITY, INC., MEMBERS MUTUAL,
FIDELITY LIFE ASSOCIATION, APEX
HOLDCO L.P., ERIC RAHE, CALVIN
DONG, SCOTT PERRY, RICHARD
HEMMINGS, JAMES E. HOHMANN,
JAMES SCHACHT, LINDA WALKER
BYNOE, STEVEN GROOT, JOHN
FIBIGER, and NEIL ASHE,

Defendants.

Case No. 1:20-cv-456

DEFENDANTS' MOTION TO DISMISS

Defendants Vericity, Inc., Members Mutual Holding Co., Fidelity Life Association, Apex Holdco L.P., Eric Rahe, Calvin Dong, Scott Perry, Richard Hemmings, James E. Hohmann, James Schacht, Linda Walker Bynoe, Steven Groot, John Fibiger, and Neil Ashe (collectively “Defendants”) move to dismiss Plaintiff’s Complaint (Dkt. 1) under Federal Rule of Civil Procedure 12(b)(6).

Plaintiff’s Complaint should be dismissed in its entirety for several reasons. First, the Complaint is barred by the relevant statute of limitations. Second, the Complaint is an impermissible collateral attack on the decision of a state agency: the Illinois Department of Insurance, which approved the transaction Plaintiff is challenging in this case. Third, the individual counts in the Complaint are insufficient for multiple independent reasons, including

failing to plead the facts necessary to establish the causes of action under state law and naming improper defendants.

Defendants' brief filed with this motion explains the bases for dismissal in more detail.

WHEREFORE, Defendants respectfully request that this Court enter an order dismissing Plaintiff's Complaint with prejudice under Rule 12(b)(6), awarding Defendants their costs, and awarding Defendants any other appropriate relief.

Date: June 3, 2020

Respectfully submitted,

VERICITY, INC., MEMBERS MUTUAL,
FIDELITY LIFE ASSOCIATION, APEX
HOLDCO L.P., ERIC RAHE, CALVIN
DONG, SCOTT PERRY, RICHARD
HEMMINGS, JAMES E. HOHMANN,
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BYNOE, STEVEN GROOT, JOHN
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By: /s/ Eric S. Mattson
One of their attorneys

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CERTIFICATE OF SERVICE

I hereby certify that on June 3, 2020, I caused a copy of the foregoing Motion to Dismiss to be filed via the electronic filing system for the United States District Court for the Northern District of Illinois, which will send a Notice of Electronic Filing to all attorneys of record.

/s/ Elizabeth Y. Austin

Attorney for Defendants